

December 4, 1950
Op. No. 50-268

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mr. Darrel G. Brown
Deputy County Attorney
Pima County
Tucson, Arizona

Dear Mr. Brown:

We have your letter of November 30 stating that the County Welfare Board in Tucson has advised that no assistance can be given for minor children if the mother thereof is married to a man not the father of the children, natural or by adoption, who is gainfully employed, and asking whether this is correct.

We assume that you refer to the aid to dependent children program contained in Article 4 of Chapter 70, ACA 1939, code supplement.

The statement of the Pima County Department of Public Welfare is correct, in our opinion. Aid to dependent children is authorized under the above described article. The definition of a "dependent child" for this program is set forth in Section 70-101, (code supplement), and provides that a needy child is one under the age of 16, or 18 if attending school, who has been deprived of parental support or care by death, continued absence from home or physical or mental incapacity of a parent and whose relatives liable under the law for his support are not able to provide adequate care and support without public assistance.

It is our opinion that under this definition a child is not a dependent child unless he has been "deprived of parental support or care" for the reasons given above. Such parental support or care may legally be required of a stepfather who stands in loco parentis, although originally he had no natural or legal obligation to care for a minor stepchild, if he assumes that duty when he marries the mother of the minor children.

See Estate of Harris, 16 Ariz. 1, 140 P. 825, Ann. Cas. 1916A, 1175.

We trust this answers your inquiry.

Very truly yours,

FRED O. WILSON
Attorney General

LORNA E. LOCKWOOD
Assistant Attorney General

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